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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,360	08/09/2001	Nicholas Webb	3036/49686	5293

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CROWELL & MORING LLP
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Washington, DC 20044-4300

EXAMINER

MENGISTU, AMARE

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,360

Applicant(s)

WEBB ET AL.

Examiner

Amare Mengistu

Art Unit

2673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-35 is/are allowed.
- 6) ☒ Claim(s) 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. Claims 21-28 are rejected under 35 U.S.C. 102(e) as being anticipated by **August et al (6,389,055)**.

As to claims 21 **August et al** (hereinafter **August**) a device for displaying information comprising: a display means (see, figs. 1,4,5 (110), col.2, lines 23-35, col.3, lines 14-20); activation means (fig.1 (26))/receiving an acoustically propagated signal (fig.1 (20)) coupled to said display means (fig.1 (110)) for causing said display means to display predefined information upon reception of predefined acoustically propagated data broadcast by a commercial broadcast source (fig.1 (19), (20), col.2, lines 22-34, col.4, lines 45-57), wherein said commercial broadcast source comprises one of a commercial radio broadcaster and a commercial television broadcaster (col.2, the last 2 lines – col. 3 lines 10, lines 28-32, col.4, lines 45-57 col.5, lines 35-43).

As to claim 22, **August** also discloses said acoustic signal is digitally modulated (col.3, lines 39-43).

As to claims 23,27,28 **August** teaches programming said predefined data and said predefined information [an advertisement/a message] (col.2, lines 31-34, col.4, lines 45-57).

As to claim 24, **August** discloses that the display is LCD (col.2, lines 23-29, col.6, lines 42-43).

As to claim 25, **August** also teaches said activation means is an application specific integrates circuit (see, fig.1 (26)).

In regard to claim 26, **August** discloses said device further includes a microphone (fig.1 (14)). **August** did not expressly detail an analog to digital interface, a programmable digital processor and a battery. However, one skilled in the art would have recognized that the device of **August** would have to have an analog to digital interface, a programmable digital processor since the decoder (26) only receive a digital data (see, fig.1 (26)), col.3, lines 39-43).

Allowable Subject Matter

3. Claims 29-35 are allowed.
4. The following is an examiner's statement of reasons for allowance:

The cited prior arts [**August, Albert et al**] has failed to teach Applicant's claimed invention "***comparing said received acoustically propagated signal with a predefined signal; and when received acoustically propagated signal matches said predefined signal***"; "***means for comparing a content of said acoustically propagated signal with a stored predefined signal content; a human detectable output unit; and means for causing said output unit to generate a predetermined information signal upon detect of a match between said acoustically propagated signal and said predefined signal content, said predetermined information signal***

being on one of visually and audibly detectable form” and “a person wearing a badge while listening to one of cinema, radio and television program material, said badge having an acoustic detector, processor means for processing information received from said acoustic detector, and means for displaying predetermined visual indicators; upon determination by said processor means that said acoustic detector has received predefined acoustic information, said processor means causing said display means to display a predetermined visual indicator associated with said predetermined information”.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Response to Arguments


5. Applicant's arguments with respect to claims 21-35 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amare Mengistu whose telephone number is (703)305-4880. The examiner can normally be reached on M-F,T-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on (703)305-4938. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Amare Mengistu
Primary Examiner
Art Unit 2673

AM
1/18/05